

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

|                                 |   |   |
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| <b>COMMONWEALTH OF VIRGINIA</b> | ) | <b>CRIMINAL NO. 102888</b>                |
| <b>VERSUS</b>                   | ) |   |
| <b>LEE BOYD MALVO a/k/a</b>     | ) | <b>INDICTMENT - CAPITAL MURDER (2</b>     |
| <b>John Lee Malvo</b>           | ) | <b>Counts) and USING A FIREARM IN THE</b> |
|                                 |   | <b>COMMISSION OF A FELONY</b>             |

On March 31, 2003, Robert F. Horan, Jr., the Commonwealth's Attorney, Raymond Morrogh, the Deputy Commonwealth's Attorney, LEE BOYD MALVO a/k/a John Lee Malvo, the Defendant, and Michael Arif and Craig Cooley, co-counsel for the Defendant, appeared before this Court. The Defendant is indicted for the felonies of CAPITAL MURDER (2 Counts) and USING A FIREARM IN THE COMMISSION OF A FELONY and he appeared while in custody.

This case came before this Court today for argument on the Defendant's motions. The Court ruled as follows on each motion:

1. Motion to Preclude the Use of Unadjudicated Acts - denied.
2. Motion for Admission of Prison Life Evidence as Rebuttal for the Commonwealth's Evidence of Future Dangerousness - denied.
3. Motion to Declare the Juvenile Death Penalty Unconstitutional - denied.
4. Motion to Exclude Victim Impact Testimony - denied.
5. Motion Requesting that the Court Order the Clerk to Produce a List of Persons Selected for the Jury Panel and a Copy of their Information Questionnaire to Counsel for the Defendant - denied.
6. Motion for Appointment and Funding of Experts – granted in part and denied in part. The motion was granted as to a DNA expert, a ballistics expert and a fingerprint analysis expert and denied as to a mitigation specialist and a voice audio expert. The motion as to a handwriting expert was denied without prejudice to being renewed

should the Commonwealth's Attorney seek to tie any writings to Mr. Malvo by any forensic evidence.

7. Motion for a Bill of Particulars as to Count I and Count II – denied as to Count I and denied without prejudice as to Count II. The motion as it relates to Count II may be renewed after the Motion to Suppress is decided.
8. Motion to Preclude the Commonwealth from Seeking the Death Penalty Based Upon the "Vileness" Factor – denied.

The Defendant was remanded to the custody of the Sheriff.

Entered on March 31, 2003.

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JUDGE JANE MARUM ROUSH